

THE UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

EMILY OKIKAWA, and
MICHAEL OKIKAWA,

Plaintiffs,

VS.

THE UNITED STATES OF AMERICA,

Defendant.

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CIVIL NO. **SA-2014-CV-920**

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

1. Now comes, EMILY OKIKAWA and MICHAEL OKIKAWA, hereinafter referred to as Plaintiffs' in the above styled and numbered cause, complaining of the UNITED STATES OF AMERICA, hereinafter referred to as Defendant, and for cause of action would respectfully show unto the Court the following:

JURISDICTION

2. Jurisdiction in this case is founded on the Federal Tort Claims Act, and Title 28 U.S.C. § 1346(b). The amount in controversy exceeds the sum of \$100,000.00, exclusive of interest, costs, and attorney's fees.

VENUE

3. Plaintiffs, EMILY OKIKAWA and MICHAEL OKIKAWA, are residents/citizens of San Antonio, Bexar County, Texas.

4. Each of the relevant acts complained of occurred at the Wilford Hall Medical Center, Lackland Air Force Base, Bexar County, Texas, within the San Antonio Division of the United States District for the Western District of Texas.

ADMINISTRATIVE CLAIM

5. Plaintiffs EMILY OKIKAWA and MICHAEL OKIKAWA, have filed their original Claims for Damages with the Air Force Medical Claims Judge Advocate at Lackland AFB, Texas more than six months prior to the filing this Original Complaint. The Department of the Air Force has not denied the Plaintiffs Claims; however, the investigative six month period has expired. A copy of these claim forms are attached to this Complaint and marked as Exhibit "A" and "B".

SERVICE

6. Service of citation may be had upon the Defendant, UNITED STATES OF AMERICA, by serving its agent, Robert Pitman, United States Attorney for the Western District of Texas, at his office located at 601 NW Loop 410, San Antonio, Bexar County, Texas 78216, and by sending a true and correct copy of this Complaint by Certified Mail, Return Receipt Requested, to The Honorable Eric Holder, Attorney General of the United States of America, The Department of Justice, 10th and Constitution N.W., Room B-112, Washington, D.C. 20530.

AGENCY

7. The Defendant, UNITED STATES OF AMERICA, acting by and through its agents, servants and/or employees of the Department the Air Force, owns and operates the Wilford Hall Medical Center located at Lackland Air Force Base, Bexar County, Texas. Said facility provides healthcare services for persons such as Plaintiff, EMILY OKIKAWA.

FACTUAL BACKGROUND

8. Plaintiff, EMILY OKIKAWA, is a 41-year-old woman who was born on September 11, 1973. On August 6, 2012, EMILY OKIKAWA was seen by Dr. Mark Packer, Neurologist, for

conductive hearing loss with a tympanic membrane perforation on the left side. Surgery was recommended. On November 5, 2012, Dr. Mark Packer performed a left tympanomastoidectomy. During the procedure the dura mater was negligently lacerated resulting in a cerebral spinal fluid leak. Surgical repair of this iatrogenic injury was attempted. EMILY OKIKAWA was admitted overnight, then subsequently discharged to her home on November 6, 2012.

9. On November 16, 2012, EMILY OKIKAWA experienced a sudden onset of severe headache with seizure-like symptoms. She was taken to the Methodist Stone Oak Hospital Emergency Department, where an MRI identified a temporal hemorrhage with edema. EMILY OKIKAWA was transferred and admitted to Brooke Army Medical Center. The Neurosurgery Service interpreted CT findings as indicating a vein of Labbe injury and that a venous infarction had occurred. EMILY OKIKAWA was treated medically and discharged to home again on November 21, 2012. Following her discharge EMILY OKIKAWA received Coumadin treatments for venous sinus thrombosis until February of 2013. She also underwent occupational therapy, physical therapy and speech therapy for the neurologic deficit that she sustained secondary to her seizure. EMILY OKIKAWA remained under seizure precautions until February of 2013.

NEGLIGENT ACTS AND/OR OMISSIONS

10. Plaintiffs', EMILY OKIKAWA and MICHAEL OKIKAWA, would show that the Defendant, UNITED STATES OF AMERICA, acting by and through its agents, servants and/or employees at Wilford Hall Medical Center, was negligent in the health care and treatment provided to the Plaintiff, EMILY OKIKAWA, and that such negligence was a direct and

proximate cause of the damages suffered by the Plaintiffs' herein. Such negligent acts and/or omissions include, but are not limited to the following:

- (A) Failing to perform the tympanomastoidectomy on November 15, 2012, up to and within the requisite standard of care;
- (B) Failing to timely and properly provide postoperative care up to and within the requisite standard of care following Plaintiff, EMILY OKIKAWA's surgery on November 5, 2012; and
- (C) Failing to act as physicians, surgeons, and other healthcare providers of ordinary prudence would have acted under the same or similar circumstances.

11. Each and all of the above foregoing acts of the Defendant, both of omission and commission, were negligent and constituted negligence, and each and all were a proximate cause of the injuries and damages sustained by the Plaintiffs' herein.

DAMAGES

12. As a result of the negligence of the physicians and staff at Wilford Hall Medical Center, Plaintiff, EMILY OKIKAWA, has been caused to suffer physical pain, mental anguish, physical impairment, and physical disfigurement in the past, and will, in reasonable medical probability, continue to suffer these injuries in the future. Additionally, Plaintiff EMILY OKIKAWA has been caused to incur medical, hospital, and therapy expenses in the past, and will in reasonable medical probability, continue to incur these expenses in the future. Plaintiff EMILY OKIKAWA has also sustained a loss of income and earnings in the past, and will, in reasonable medical probability, continue to sustain these losses in the future. Plaintiff EMILY OKIKAWA's injuries to her brain and bodily generally are severe and permanent.

13. Plaintiff, MICHAEL OKIKAWA, has been caused to sustain a loss of consortium and a loss of household services in the past, and will, in reasonable medical probability, continue to sustain these losses in the future, as a result of the severe and permanent injuries sustained by his

wife, Plaintiff, EMILY OKIKAWA, as a result of the negligence of the military physicians and staff.

DAMAGE LIMITATIONS

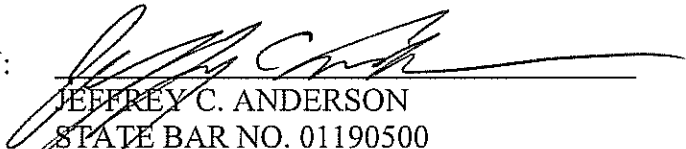
14. Plaintiffs', believe and allege that the damages caused by the Defendant, UNITED STATES OF AMERICA's, acts of omission and/or commission have injured the Plaintiffs in an amount within the jurisdictional limits of this Court.

15. WHEREFORE, PREMISES CONSIDERED, Plaintiffs' pray that the Defendant herein be duly cited to appear and answer herein, and that upon final hearing of this suit, Plaintiffs' have and recover a judgment from the Defendant in an amount within the jurisdictional limits of this Court, together with post-judgment interest as allowed by law, plus reasonable costs of Court, and for such other and further relief, both general and special, in law and equity, to which the Plaintiffs' may show themselves to be justly entitled.

Respectfully submitted,

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